

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Michael McBee,

Plaintiff,

v.

Maj. Steven Anderson, Cpt. Wells,
CO Mark McKinney, CO Tristan
Lewis, Dr. Steve Outz,

Defendants.

Case No. 8:24-cv-01242-JDA

OPINION AND ORDER

This matter is before the Court on a motion to dismiss for lack of prosecution by Defendants Maj. Steven Anderson, Cpt. Wells, CO Mark McKinney, and CO Tristan Lewis and a motion to join in the motion to dismiss by Defendant Steve Outz. [Docs. 44; 47.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and later reassigned to United States Magistrate Judge William S. Brown.

On October 1, 2024, Magistrate Judge Brown issued a Report and Recommendation (“Report”) recommending that both motions be granted. [Doc. 62.] The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [*Id.* at 6.] Plaintiff has filed no objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of any portion of the

Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the motion to dismiss for lack of prosecution by Defendants Maj. Steven Anderson, Cpt. Wells, CO Mark McKinney, and CO Tristan Lewis [Doc. 44] and the motion by Defendant Steve Outz to join in the other Defendants’ motion to dismiss [Doc. 47] are both GRANTED and the action is DISMISSED with prejudice.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

December 3, 2024
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.